IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 11853 of 2007(J)

PETITIONER:

PADMAVATHY, W/O.LATE THANKAPPA PANICKER, SANKARA VILASATH VEEDU, MALAYILKIL, (VIA) KATTAKKADA, TRIVANDRUM.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:
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1. MALAYINKIL SERVICE CO-OPERATIVE BANK LTD., NO.605, MALAYINKIL, (VIA) KATTAKKADA, THIRUVANANTHAPURAM, REP. BY ITS SECRETARY.

2. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETY, THIRUVANANTHAPURAM.

3. STATE OF KERALA, REP. BY SECRETARY, CO-OPERATIVE DEPARTMENT, TRIVANDRUM.

ADDL.4. VASANTHA, D/O. PADMAVATHI, R.V. HOUSE, THUMBODE, BALARAMAPURAM, PALLICHAL, THIRUVANANTHAPURAM.

ADDL.5. USHAKUMARI, D/O. USHAKUMARI, SANKAR VILASOM, MALAYINKEEZHU, THIRUVANANTHAPURAM.

ADDL.6. AJITHA KUMARI, D/O. PADMAVATHI, PRASANTH BHAVAN, MALAYINKEEZHU, THIRUVANANTHAPURAM.

(ADDL. R4 TO R6 ARE IMPLEADED AS PER ORDER ON I.A. NO.7174/07 DATED 1.6.2007.)

R1 BY ADV. SRI.D.KISHORE
R2 & R3 BY GOVERNMENT PLEADER (SHRI P.K. RAVIKRISHNAN)
ADDL.R4 TO R6 BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
SRI.R.V.SREEJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO.11853 OF 2007 J

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTO COPY OF THE FIXED DEPOSIT NO.FD.NO.11593/06 DATED 19.7.06 FOR THE AMOUNT OF RS.25,000/= THE DATE OF MATURITY 19.8.09.

EXT.P1(A) TRUE PHOTOCOPY OF THE FIXED DEPOSIT NO.1192/06-07 DATED 19.7.06 THE AMOUNT OF RS.90,000/- THE DATE OF MATURITY 19.8.09.

EXT.P1(B) TRUE PHOTOCOPY OF THE FIXED DEPOSIT NO.11603/06 DATED 22.7.06 THE AMOUNT OF RS.50,000/= THE DATE OF MATURITY 22.8.09.

EXT.P1(C) TRUE PHOTOCOPY OF THE FIXED DEPOSIT NO.11584/06 DATED 17.7.06 THE AMOUNT OF RS.95,000/= THE DATE OF MATURITY 17.8.09.

EXT.P1(D) TRUE PHOTOCOPY OF THE FIXED DEPOSIT NO.11585/06 DATED 17.7.06 THE AMOUNT OF RS.90,000/= THE MATURITY DATE 17.8.09.

EXT.P2 TRUE PHOTOCOPY OF THE DEATH CERTIFICATE ISSUED ON 27.1.07 ISSUED BY SECRETARY TO MALAYINKEEZHU GRAMA PANCHAYAT.

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

W.P.C. NO. 11853 OF 2007 J

Dated this the 20th June, 2007

JUDGMENT

The prayer in the Writ Petition is to command the first respondent to allow the petitioner to withdraw the amounts with interest in various Fixed Deposits holding that the Bank has no legal right to retain the amounts in the Fixed Deposits. According to petitioner, her husband made the Fixed Deposits. He expired on 8.1.2007. Petitioner is the sole nominee in all the Fixed Deposits, it is stated. She approached the first respondent to allow her to withdraw the amounts which was refused. Petitioner also relies on Section 52 of the Banking Regulation Act.

2. I heard learned counsel for the petitioner, learned counsel for the first respondent as also learned counsel appearing for additional respondents 4 to 6, besides the learned Government Pleader. There is a Suit, OS No.58/07 is pending before the Sub Court, Neyyattinkara. Petitioner is a party in the

main Suit, it is submitted by Shri D. Kishore, counsel appearing for the first respondent. In view of the fact that there is an injunction order against the Bank obtained in the Suit, it is not proper for me under Article 226 of the Constitution of India to direct the respondent Bank to disburse the money. In such circumstances, as the petitioner is a party to the Suit, it is open to her to approach the civil court to vacate the injunction order. If the petitioner makes an application before the Sub Court seeking to vacate the injunction order, the Sub Court will pass orders without undue delay.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

kbk.